IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 8544 of 2007(P)

PETITIONER:

BIJI CHACKO,
COMPOSITOR GRADE-II, GOVERNMENT PRESS,
KAKKANAD, ERNAKULAM DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.TOJAN J. VATHIKULAM

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
DEPARTMENT OF HIGHER EDUCATION (H),
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF HEALTH SERVICES,
THIRUVANANTHAPURAM.

3. THE DIRECTOR OF PRINTING,
GOVERNMENT CENTRAL PRESS, THIRUVANANTHAPURAM.

4. THE DEPUTY SUPERINTENDENT,
GOVERNMENT PRESS, KAKKANAD, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.P. NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT-P1	TRUE COPY OF THE MEDICAL CERTIFICATE BEARING NO.128/1995 DATED 18.1.1995 ISSUED BY THE SPECIAL MEDICAL BOARD FOR HANDICAPPED, ERNAKULAM.
EXT-P2:	TRUE COPY OF THE LETTER DATED 19.8.1995 ISSUED BY THE 3RD RESPONDENT
EXT-P3:	TRUE COPY OF THE PROCEEDINGS BEARING ORDER NO.4277/95/E3 DATED 20.12.1995 ISSUED BY THE 3RD RESPONDENT
EXT-P4:	TRUE COPY OF THE PROCEEDINGS DATED 15.7.1996 ISSUED BY THE 3RD RESPONDENT
EXT-P5:	TRUE COPY OF THE NOTICE DATED 23.4.1999
EXT-P6:	TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER DATED 7.5.1999
EXT-P7:	TRUE COPY OF THE JUDGMENT DATED 1.06.2006 IN O.P. NO.12554 OF 1999
EXT-P8:	TRUE COPY OF THE COMMUNICATION BEARING NO.24520/06/E3 DATED 2.11.2006
EXT-P9:	TRUE COPY OF THE COMMUNICATION.

/TRUE COPY/

K.BALAKRISHNAN NAIR,J.

W.P (C) No.8544 of 2007

Dated this the 13th day of July, 2007

J U D G M E N T

The petitioner is a person who got appointment under the scheme for regularisation of the physically handicapped persons. She got that benefit based on Ext.P1 certificate which would show that she is suffering from 45% disability. She points out that when she was finally regularised she was further examined and it was found that she is a physically handicapped person entitled for regularisation. So she was regularised in service with effect from 1.1.1996. Certain complaints were raised against the regularisation of the petitioner and others that they have obtained regularisation in service by procuring false disability certificates, though they were not actually suffering any disability. Based on that complaint, Ext.P5 notice was issued to the petitioner and others. She submitted Ext.P6 reply. Thereafter, she approached this court by filing O.P.12554/1999 seeking appropriate reliefs. This court disposed of the said O.P by Ext. P7 judgment issuing the following direction.

> "Orders impugned in this original petitions are only notices. The petitioners may file their objections. Since the matter causes serious consequences to them, the Director of Printing shall furnish copies of all the materials

> adverse to them, which are likely to be used against them. While passing final orders, all of them shall be given an opportunity of personal hearing. Needless to say, before passing final orders, they shall not be terminated from service. The petitioners may file their representations or additional representations, if any, within one month from today. The Director of Printing shall pass final orders as directed above, within four months from today. The petitioners shall produce copies of this judgment and their representations, if any, within the above time limit of one month, before the Director"

2. While so, the petitioner and others were directed to appear for a further physical test by Ext.P9. This writ petition was filed challenging Ext.P9. She has already undergone the physical test pursuant to Ext.P9. She participated in the test subject to further orders in this writ petition. The following are the reliefs sought in this writ petition.

> " i) to call for the records leading to Ext.P9 and quash the same to the extent it directs the petitioner to produce fresh certificate by undergoing test and to appear before the State Disability Board, by issuing a writ of certiorari.
>
> ii) Issue a writ of mandamus directing the 3rd respondent to drop all further proceedings for the termination service of the petitioner and to retain her in service.
>
> iii) to command the respondents to complete the enquiry as directed in Ext.P7
>
> iv) declare that the petitioner is not liable to be subjected to examination by the State Disability Board at present in 2007, for assessment of her disability for her eligibility to get appointment in the year 1995"

3. I find no reason to interfere with Ext.P9 which is issued by the competent authority. The second relief cannot be granted as the matter is pending before the competent authority pursuant to the direction of this court in Ext.P7 judgment. Since there is already a direction to pass final order, within four months, it is unnecessary to again fix a time limit for passing fresh orders. The 4th prayer cannot be granted as the competent authority is having the power to examine whether the petitioner is suffering from any disability claimed by her. In the result, none of the reliefs, sought for by the petitioner could be granted. Accordingly, the writ petition is dismissed. But it is made clear that I have not expressed any opinion on the claim of the petitioner regarding her disability and her right to continue in service.

(K.BALAKRISHNAN NAIR, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007